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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,041	01/25/2002	Richard L. Wall	40256.1-US-01	3441
23552	7590	10/31/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			DYKE, KERRI M	
			ART UNIT	PAPER NUMBER
			2667	

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/057,041	<b>Applicant(s)</b> WALL ET AL.	
	<b>Examiner</b> Kerri M. Dyke	<b>Art Unit</b> 2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 2, 6, and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                                    |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                               | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/12/04 4/05/02</u> | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include several errors:
  - a. Figure 1 element 114 is not in the drawing and elements 122 and 124 are not in the specification.
  - b. "Post operation" is referred to as 330 and 332 in line 28 on page 14.
  - c. Figure 8 is referred to as figure 7 in line 33 of page 14.
  - d. Figure 8 elements 355, 365, and 375 are used to refer to both "retry operation" and "flag conflict" in lines 19 and 24-25 on page 15.
  - e. Figure 8 elements 356, 366, and 376 are not in the specification.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The abstract of the disclosure is objected to because it appears to exceed the limit of 150 words. Correction is required. See MPEP § 608.01(b).

***Claim Objections***

4. Claims 2, 6, and 19 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.
5. Claims 2 and 6 each ultimately depend upon claim 1. Claim 1 recites the limitation of testing for validity of the design. Claims 2 and 6 recite the limitation of testing for failure of the design. A design cannot be valid if a portion of it contains a failure. Therefore, testing for validity encompasses testing for failure.
6. Claim 19 depends upon claim 18, which recites the limitation of testing for validity. Claim 19 recites the limitation of testing for errors. A design cannot be valid if it contains errors. Therefore, testing for validity encompasses testing for errors.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doshi et al. (*Overview of INDNT – A new Tool for Next Generation Network Design*) in view of Russ et al. (US 5,841,759).

9. In regards to claim 1, Doshi et al. discloses provisioning components in the network to provide a private line design; retrying the provisioning operation; and configuring the network to build a private line circuit in accordance with a private line design. Section 1 discloses that the IDNT tool can be used for six different types of networks, including private lines. Section 2 discloses how the IDNT works in detail, including the details about using the tool recursively to obtain an optimum network. Doshi et al. does not disclose validating the design or retrying the provisioning operation in response to a failed validation.

Russ et al. discloses a method of testing a network path in order to ensure validity in column 2 lines 6-7.

It would have been obvious to one of ordinary skill in the art to test the private line design of Doshi et al. using the validity test of Russ et al. because the new line may use many previously unused spare parts and thus should be checked for integrity, as taught by Russ et al. in column 1 lines 54-67.

10. In regards to claim 2, Doshi et al. and Russ et al. disclose the method of claim 1, further comprising the operations of: testing the private line circuit for failure; if testing operation detects a failure in the private line circuit, retrying the provisioning operation, the validating operation and the configuring operation to build a new private line circuit (Doshi et al. section 2 and Russ et al. column 2 lines 6-7).

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11. In regards to claim 3, Doshi et al. and Russ et al. disclose the method of claim 2 further comprising the operations of: detecting availability of the components in the private line design; and retrying the provisioning operation, if one or more components are not available. Doshi et al. section 2 discloses detecting the available bandwidth of each segment and rerouting if the segment is underutilized. It would have been obvious to one of ordinary skill in the art to perform the rerouting function if the segment was not available because the lack of the asset may violate the constraints as described in section 1.

12. In regards to claim 4, Doshi et al. and Russ et al. disclose the method of claim 1 further comprising the operations of: finding an optimal route; said provisioning operation provisioning the private line design based on the optimal route (Doshi et al. section 2 and more specifically section 2.2).

13. In regards to claim 5, Doshi et al. and Russ et al. disclose the method of claim 4 further comprising the operations of: testing the capacity of the optimal route; retrying said finding and capacity testing operations if the optimal route does not have the capacity to provide the private line (Doshi et al. section 2 and more specifically section 2.2).

14. Claim 6 adds the same further limitation as claim 2 and is thus rejected upon the same grounds.

15. Claims 7-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doshi et al. (*Overview of INDT – A new Tool for Next Generation Network Design*) in view of Kondo et al. (US 5,586,254) further in view of Commerford et al. (US 6,134,671).

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16. In regards to claim 7, Doshi et al. discloses an automated system for delivering network service in a communications network, the automated system comprising: a routing engine finding an optimal route for the network service; a provisioning system creating a circuit design of network components for the route and assigning the network component based on network records; a command control engine controlling the routing engine, the provisioning system and the service management system to deliver the network service (sections 1-2). Doshi et al. does not disclose a service management system configuring and activating network components in the design based on actual network components in the network or said command control engine, if bad network components are detected during provisioning or configuring, controlling the routing engine, the provisioning system and the service management system to retry delivering the network service with another route and circuit design.

Kondo et al. discloses a service management system configuring and activating network components in the design based on actual network components in the network (column 11 lines 22-27).

It would have been obvious to one of ordinary skill in the art to use the management of network environment taught by Kondo et al. in order to develop the private line as taught by Doshi et al. because doing so lightens the workload of network managers, as taught by Kondo et al. in column 12 lines 1-14.

Commerford et al. discloses delivering the network service with another route and circuit design if bad network components are found in column 2 lines 16-21 and lines 28-31.

It would have been obvious to one of ordinary skill in the art to automatically detect bad components and try to route around them, as taught by Commerford et al., in the conjunction

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with the private line design system of Doshi et al. because there is recognized to be a need for dynamic rerouting based upon accurate network architecture, as taught by Commerford et al. in column 1 lines 50-57.

17. In regards to claim 8, Doshi et al., Kondo et al., and Commerford et al. disclose the system of claim 7 wherein the routing engine comprises: a test module detecting a limiting element in the optimal route that limits delivery of the network service; a mark module marking the limiting element as not useable; a retry module initiating the routing engine to find a new route if the test module detects a limiting element. Doshi et al. describes optimizing the network in section 2.2. Commerford et al. discloses marking insufficient parts in column 2 lines 16-21 and to retry routing with an acceptable route in column 2 lines 28-31.

18. In regards to claim 9, Doshi et al., Kondo et al., and Commerford et al. disclose the system of claim 7 further comprising: a reconciliation system automatically fixing conflicts between network records and actual network components. Commerford et al. discloses updating the databases after finding a broken or unavailable component in column 2 lines 16-21.

19. In regards to claim 11, Doshi et al., Kondo et al., and Commerford et al. disclose the system of claim 7 wherein the service management system further comprises: a fault/inventory system comparing the circuit design against a live inventory of network components in the actual network and indicating an error in the circuit design if a component in the circuit design does not match a component in the live inventory; and a purge module purging the circuit design if said fault/inventory system indicates an error. Commerford et al. discloses building a database of unavailable parts in order to avoid using them for circuit designs in column 2 lines 16-31.



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20. Claims 10 and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doshi et al. (*Overview of INDT – A new Tool for Next Generation Network Design*) in view of Kondo et al. (US 5,586,254) further in view of Commerford et al. (US 6,134,671) further in view of Russ et al. (US 5,841,759).

21. In regards to claim 10, Doshi et al., Kondo et al., and Commerford et al. disclose the system of claim 7 wherein the command control engine further comprises: a mark module marking the bad network component as unavailable; and a retry module initiating the routing engine to find a new route without the network component marked unavailable if the validating module indicates a bad network component. Kondo et al. discloses validating a design based upon network records in column 9 lines 3-8. Commerford et al. discloses marking bad segments in column 2 lines 16-21 and retrying with an acceptable route in column 2 lines 28-31. Doshi et al., Kondo et al., and Commerford et al. do not disclose a validating module validating the circuit design against the network records and indicating a bad network component that can not be validated.

Russ et al. discloses a method of testing a network path in order to ensure validity in column 2 lines 6-7.

It would have been obvious to one of ordinary skill in the art to test the private line design of Doshi et al. using the validity test of Russ et al. because the new line may use many previously unused spare parts and thus should be checked for integrity, as taught by Russ et al. in column 1 lines 54-67.

22. Claim 12 is rejected upon the same grounds as claim 7, but Doshi et al., Kondo et al., and Commerford et al. do not disclose validity testing.

Russ et al. discloses a method of testing a network path in order to ensure validity in column 2 lines 6-7.

It would have been obvious to one of ordinary skill in the art to test the private line design of Doshi et al. using the validity test of Russ et al. because the new line may use many previously unused spare parts and thus should be checked for integrity, as taught by Russ et al. in column 1 lines 54-67.

23. In regards to claim 13, Doshi et al., Kondo et al., and Commerford et al. disclose the method of claim 12 wherein said creating operation further comprising the operations of: finding an optimal route for the private line; and creating the design based on the optimal route for the private line (Doshi et al. section 2).

24. Claim 14 is rejected upon the same grounds as claim 8.

25. In regards to claim 15, Doshi et al., Kondo et al., and Commerford et al. disclose the method of claim 13 wherein said configuring operation further comprises the operation of: activating network elements and segments to build the private line (Doshi et al. section 2 and Commerford et al. column 2 lines 28-31).

26. Claim 16 is rejected upon the same grounds as claim 7. Commerford et al. discloses testing for a failure. If one is present the bad components are listed in a database and the good components are released into a database of available, spare parts (column 2 lines 16-34). Doshi et al., Kondo et al., and Commerford et al. do not disclose validity testing.

Russ et al. discloses a method of testing a network path in order to ensure validity in column 2 lines 6-7.

It would have been obvious to one of ordinary skill in the art to test the private line design of Doshi et al. using the validity test of Russ et al. because the new line may use many previously unused spare parts and thus should be checked for integrity, as taught by Russ et al. in column 1 lines 54-67.

27. Claim 17 is rejected upon the same grounds as claim 13.

28. Claim 18 is rejected upon the same grounds as claim 16. Doshi et al. discloses a computer apparatus and program means in section 1. Commerford et al. discloses a computer apparatus and program means in column 2 lines 10-13.

29. In regards to claim 19, Doshi et al., Kondo et al., and Commerford et al. disclose the apparatus of claim 18 wherein said means for configuring further comprises: error test means for testing the validated circuit design against actual network elements and segments to detect errors in the validated circuit design; means responsive to said error test means if an error is detected, for releasing good segments in the validated circuit design; and means responsive to said error test means if an error is detected, for retrying said means for provisioning and said validity means to provision, assign and test a circuit design that does not contain bad segments and bad ports and is a validated circuit design and for retrying said means for configuring to provide the network service. Commerford et al. discloses ensuring bad segments are not included in the design and choosing only a valid, error free route in column 2 lines 16-31.

30. In regards to claim 20, Doshi et al., Kondo et al., and Commerford et al. disclose the apparatus of claim 19 wherein said validity means tests the circuit design against an asset inventory database of network records of network elements and segments (Kondo et al. column 9 lines 3-8).

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31. In regards to claim 21, Doshi et al., Kondo et al., and Commerford et al. disclose the apparatus of claim 20 wherein said error testing means tests the validated circuit design against a live inventory database of actual network elements and segments (Commerford et al. column 2 lines 16-21).

32. In regards to claim 22, Doshi et al., Kondo et al., and Commerford et al. disclose the apparatus of claim 21 further comprising: means for reconciling differences between the asset inventory database and the live inventory database. Commerford et al. discloses updating each database to ensure accuracy in column 2 lines 20-21.

33. Claim 23 is rejected upon the same grounds as claim 13.

34. In regards to claim 24, Doshi et al., Kondo et al., Commerford et al., and Russ et al. disclose the apparatus of claim 23 wherein said means for finding comprises: capacity means for testing the capacity of the optimal route and marking network elements limiting the capacity; means for initiating a retry by said means for finding to find an optimal route without network elements marked by said capacity means so that an optimal route is found with a capacity to satisfy the network service (Doshi et al. sections 2.2 and 2.3).

### ***Conclusion***

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Saito (US 6,948,101) and Steele, Jr et al. (US 6,603,742) disclose additional methods for automatically configuring a route/network. They also disclose route validity testing and optimization techniques.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kerri M. Dyke whose telephone number is (571) 272-0542. The examiner can normally be reached on Monday through Friday, 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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10/28/05